

AMENDMENT AFTER FINAL REJECTION
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REMARKS

Reconsideration of the above identified application and allowance of all the pending claims are respectfully requested in view of the following remarks. Claims 1, 6, 9-11, and 17-18 remain pending herein. Claims 2-5, 7-8, 12-16 and 19-22 were previously canceled without prejudice or disclaimer. Claims 1, 10 and 17 are independent claims. Claims 10 and 17 have been amended, support for which is found in original claim 1 and the specification at page 11, lines 12-15, page 9, lines 5-7 and shown in FIG. 5.

Applicant acknowledge and appreciate that the Examiner has indicated that the previous arguments in the response filed June 27, 2008 were persuasive.

Claims 1, 6, 9-11 and 17-18 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Harel *et al.* (U.S. Pat. Appln. Pub. No. 2004/0190548) ("Harel") in view of Wang *et al.* (U.S. Pat. Appln. Pub. 2004/0052274) ("Wang"). Applicant respectfully traverses this ground of rejection for the reasons indicated herein below.

With regard to the rejection under 35 U.S.C. §103(a) over the combination of Harel and Wang, Applicant respectfully submits that none of the present claims would have been obvious to a person of ordinary skill in the art at the time of invention. Applicant respectfully submits that the combination of Harel and Wang fails at least to disclose or other render obvious step (iii) recited in claim 1.

For example, with regard to the combination of Harel and Wang, while Wang is silent in this regard Applicant respectfully submits that Harel fails to disclose, suggest, or in any other way render obvious the recitation that a new frame structure is generated in step (iii) by merely reading the "PW type" in the label stack of a received frame. The reading of the PW type does

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not, in combination with Wang render claim 1 obvious at least because the combination of references does not generate a new frame structure as recited in claim 1.

In addition, we note that independent claim 10 is allowable over the combination of references for similar reasons, namely that the combination fails to disclose or suggest the newly generated GEM frame structure.

Moreover, claim 10 has been clarified to recite in part at step (v):

wherein, if the received frame is the GEM frame, the GEM frame ~~includes~~comprises a newly generated GEM frame structure including a GEM frame header having a field representing that a payload of the GEM frame is a control frame, a TDM (Time Division Multiplex) data frame, or an Ethernet data frame, thereby representing the payload type.

Support for the above amendment is found both in original claim 1, and the specification at page 11, lines 12-15, page 9, lines 5-7 and shown in FIG. 5. Applicant respectfully submits that similar to claim 1, claim 10 recites a newly generated GEM frame structure not disclose or rendered obvious in view of the combination of Harel and Wang.

Finally, independent claim 17 has also been amended to recite in part:

in which a GPON encapsulation method (GEM) frame is received comprising a newly generated GEM frame structure having a header with—representing a payload type of the GEM frame including a payload type information, which represents a data type of a payload of the frame in a predetermined field of a header of the GEM frame for performing an operation according to a represented payload type

Support for the amendments to claims 10 and 17 is found at least at page 11, lines 12-15, page 9, lines 5-7, original claim 1, and is shown in FIG. 5.

Applicant respectfully submits that with regard to the combination of Harel and Wang, while Harel fails to disclose the newly created GEM frame and Wang is silent in this regard, thus

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as a combination, Harel and Wang would have failed to disclose or in any way render any of independent claims 1, 10 and 17 obvious at the time of invention.

Moreover, Applicant respectfully submits that the combination of elements, as recited in the present claims, would not have been within the level of ordinary skill in the art (*KSR International v. Teleflex*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007)).

Reconsideration and withdrawal of this ground of rejection under 35 U.S.C. §103(a) are respectfully requested.

Applicant also respectfully submits that with regard to claims 6, 9, 11 and 18, all of these claims are patentable at least for dependency from one of independent claims 1, 10 or 17, which are believed to be patentable for the reasons disclosed above, and because of a separate basis for patentability. Individual consideration of all the claims on their own merits is respectfully requested.

Accordingly, Applicant respectfully submits that the rejection under 35 U.S.C. §103(a) is overcome.

For all the foregoing reasons, it is respectfully submitted that all of the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Should the Examiner deem that there are any issues that may be best resolved by telephone communication, please contact Applicant's undersigned Attorney at the number listed below.

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While no fees are believed to be due at this time, please credit any overages or charge any deficiencies to Deposit Account 502-470.

Respectfully submitted,



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